

**IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**HIGHMARK WEST VIRGINIA, INC.,**

**Plaintiff,**

**vs.**

**Civil Action No.: 18-C-271**

**Presiding Judge: Shawn D. Nines**

**Resolution Judge: Christopher C. Wilkes**

**MEDTEST LABORATORIES, LLC, et al.,**

**Defendants.**

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**MEDTEST LABORATORIES LLC,**

**Counterclaim and Third-Party  
Plaintiff,**

**vs.**

**HIGHMARK WEST VIRGINIA INC., et al.,**


**Counterclaim and Third-Party  
Defendants.**

**MODIFIED SCHEDULING ORDER AS TO THIRD-PARTY LITIGANTS**

COMES now the Court this 9<sup>th</sup> day of September, 2019 upon Third-Party Plaintiff and Third-Party Defendants' Joint Motion of Third-Party Plaintiff and Third-Party Defendants for Modified Scheduling Order. A hearing was held on this motion at the Scheduling Conference in this matter held on August 25, 2019.

The Court finds there is good cause shown as to have the underlying case brought by Plaintiff to proceed under the separate, general Scheduling Order entered contemporaneously with this Order by the Court and the Defendants/Counterclaimants to those claims, and to have

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CAROLE JONES  
CLERK CIRCUIT COURT

the third-party litigants, due to the unique procedural posture of this matter, particularly the jurisdictional issues raised, follow a modified Scheduling Order for third-party motions practice. For good cause shown, the Court finds Third-Party Plaintiff and Third-Party Defendants' Joint Motion of Third-Party Plaintiff and Third-Party Defendants for Modified Scheduling Order shall be GRANTED.

The Court finds judicial economy is best served by the entry of this modified scheduling order for third-party litigants in this matter. At this stage, entry of a modified scheduling order will further this Court's purpose of fair and expeditious resolution. *See* W. Va. Code §51-2-15; W. Va. T.C.R. §29.08(g). The Court has broad discretion over its trial schedule pursuant to Rule 16(b) of the West Virginia Rules of Civil Procedure. This is particularly applicable in the case at bar because jurisdictional determinations could remove third-party claims and allowing the central case to proceed could result in a resolution that moots the third-party proceedings entirely. The Court notes that at the hearing, no party objected to the entry of this modified scheduling order regarding third-party litigants.

Accordingly, the following schedule is ORDERED by the Court in the above-styled civil action; and shall not be modified except by leave of Court:

1. Deadline for Third-Party Plaintiff to amend its Third-Party Complaint: September 13, 2019;
2. Deadline for Third-Party Defendants to file renewed Motions to Dismiss: October 11, 2019;
3. Deadline for Third-Party Plaintiff to file oppositions to Third-Party Defendants' Motions to Dismiss: November 1, 2019; and
4. Deadline for Third-Party Defendants to file replies in support of the renewed Motions


to Dismiss: November 15, 2019.

The Court finds this accelerated briefing schedule for third-party motions practice, allowing for adjudication of threshold motions, prior to setting a trial schedule of these third-party claims, best serves the unique procedural posture of the claims, as well as keeps the underlying case on an efficient trial schedule.

Wherefore, it is hereby ADJUDGED and ORDERED that Third-Party Plaintiff and Third-Party Defendants' Joint Motion of Third-Party Plaintiff and Third-Party Defendants for Modified Scheduling Order is hereby GRANTED.

The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

09-09-2019  
date of entry

  
JUDGE SHAWN D. NINES  
JUDGE OF THE WEST VIRGINIA  
BUSINESS COURT DIVISION

STATE OF WEST VIRGINIA  
COUNTY OF WOOD, TO-WIT:  
I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy of an order entered in said Court, on the 9 day of September 2019, as fully as the same appears to the of record.  
Given under my hand and seal of said Circuit Court, this the 10 day of September 2019  
Carole Jones  
Clerk of the Circuit Court of Wood County, West Virginia  
By:  Deputy